

ROBERT GUILD

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June 29, 2018

Ms. Jocelyn D. Boyd
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

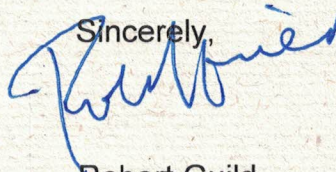
In Re: Friends of the Earth and Sierra Club v. SCE&G, etc.
Docket Nos. 2017-207--E, 2017-305-E and 2017-370-E

Dear Ms. Boyd:

Enclosed please find Friends of the Earth and Sierra Club Motion to Overrule or Clarify the Order of the Hearing Officer on Motions to Compel Discovery for consideration on an expedited basis by the full Commission. Oral argument is requested. I certify that I am, this day, filing and serving the parties with this document electronically.

With kind regards I am

Sincerely,



Robert Guild

Encl.s

CC: All Parties



BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NOS. 2017-207-E, 2017-305-E and 2017-370--E

In Re: Friends of the Earth and Sierra Club,)
Complainants/ Petitioners,)
)
 v.)
)
 South Carolina Electric & Gas Co.,)
 Defendant / Respondent.)

In Re: Request of the South Carolina Office)
of Regulatory Staff for Rate Relief to SCE&G)
Rates Pursuant to S.C. Code Ann. § 58-27-)
920)

In Re: Joint Application and Petition of South)
Carolina Electric & Gas Company and)
Dominion Energy, Inc. for review and)
approval of a proposed business combination)
between SCANA Corporation and Dominion)
Energy, Inc., as may be required, and for a)
prudency determination regarding the)
abandonment of the V.C. Summer Units 2)
& 3 Project and associated merger benefits)
and cost recovery plans)

FRIENDS OF THE EARTH AND SIERRA CLUB MOTION TO OVERRULE OR
CLARIFY THE ORDER OF THE HEARING OFFICER
ON MOTIONS TO COMPEL DISCOVERY

Friends of the Earth (FoE) and Sierra Club (Sierra) respectfully move the full Commission to overrule or clarify the June 25, 2018, Hearing Officer Directive, Order No. 2018-74-H, which improperly imposed an unwarranted and overbroad 'gag' or protective order, effectively barring our access to all further relevant and discoverable evidence essential to the determination of the central issues in these cases: the prudence and recovery of abandoned project costs of the failed V. C. Summer Nuclear Project. While the Hearing Officer has determined that we have met our discovery burden of showing that the information being sought is "relevant and necessary to their case," the proposed protective order would purportedly shield SCE&G from the public disclosure by FoE and Sierra of any further discovery material regarding the project, to its members, to other ratepayers, to elected officials, to researchers, financial analysts, investigative journalists and to any other parties allied with their interests, without regard for any determination that such discovery materials are legitimately privileged, trade secret, confidential or otherwise deserving of secrecy. It has been FoE and Sierra's long articulated position in these proceedings, extending back some ten (10) years, and acknowledged by SCE&G and this Commission, that they will not agree to any order or sign any confidentiality agreement which bars them from public disclosure of information regarding this project to its members or the interested public. FoE and Sierra have refused, and will continue to refuse to receive any "confidential" materials which they are barred from disclosing. Such a 'gag' order is contrary to the public interest, thwarts the public's strong and legitimate interests in the subject matter of these proceedings and merely shields both the utility and its regulators from

accountability for their actions regarding this project.

Pursuant to Section 58-3-40, S.C. Code Ann.; R. 103-804, 103-833 and 103-835 of the Commission's Rules and Rules 26 and 37, SCRCP, FoE and Sierra urge the Commission to overrule the Hearing Officer's Directive, to grant Its First and Second Motions to Compel Discovery, now pending since December 22, 2017 and April 10, 2018, respectively, to require prompt and complete production by SCE&G of the discovery materials sought and withheld; or, in the alternative, to clarify and limit any such protective order to protect from dissemination only those materials determined to be legitimately confidential. Because further delays in obtaining discovery will prejudice our ability to fairly prepare and participate in these proceedings, we request expedited consideration including oral argument on this Motion.

The Hearing Officer's Order requiring a blanket protective order on all further discovery, is unwarranted, arbitrary and capricious, an abuse of discretion, overbroad, clearly erroneous and unjustified by any demonstration of legitimate "general" or "particularized harm" to SCE&G warranting such a remedy. All discovery materials produced by SCE&G, including any few pages incidentally marked "Proprietary & Confidential" or similarly labeled, were freely produced by SCE&G without any restriction or claim of confidentiality; and with the full expectation by SCE&G that FoE and Sierra were free to use and circulate such documents without restriction. In particular, the very class of documents including that cited by the Hearing Officer from the Westinghouse/CB&I consortium- the firms responsible for the failed project- marked "Proprietary & Confidential," were produced by SCE&G after an explicit conversation by respective counsel in which SCE&G disclaimed any further expectation

of confidential treatment. No protective order or confidentiality agreement was sought by SCE&G for such documents which were freely produced; while many other responsive discovery documents remain withheld, subject to extensive assertions of privilege or other confidential status. This unrestricted, voluntary production of such documents- bearing a spurious 'confidential' label- as well as SCE&G's assertion of confidentiality and withholding of many other documents pursuant to claims of privilege or other confidential protection was expressly noted in correspondence of counsel. FoE and Sierra pointed to just that class of documents produced without objection by Letter of February 16, 2018, to K. Chad Burgess, Esquire of SCE&G:

With respect to your outstanding confidentiality objections, I'd invite you to consider that documents have been produced to date without objection notwithstanding explicit denomination of such documents on their face as "confidential" or otherwise commercially sensitive. Such production suggests that some remaining confidentiality objections may be overbroad or otherwise unsustainable. I look forward to working with you further on these matters.

Exhibit 2, Attached.

In short, the Hearing Officer's sole determination of a "general particularized harm" is founded upon a clearly erroneous characterization of a document previously produced without objection or claim of confidentiality. SCE&G simply made no claim of harm from "public dissemination" of "certain proprietary and trade secret information," as erroneously asserted by the Hearing Officer. Moreover, SCE&G's only actual claim of harm is far from particularized or legitimate: amounting only to being embarrassed by adverse publicity or the public disclosure of its own imprudence in managing this failed project. This is simply not legitimate harm deserving of Commission protection for a regulated utility which has squandered billion of dollars of its ratepayers money. Indeed,

these records of imprudence by SCE&G have been the subject of feverish public debate and interest over the last year fueled by repeated harsh criticism from the Governor, the most senior state legislators, editorial writers and interest groups of all political persuasions. To suggest that SCE&G is entitled to be protected from 'particularized harm' at the hands of FoE and Sierra is absurd in the extreme. A properly narrowed protective order addressing only legitimate, 'particularized harm' is a different matter. If indeed, the proposed protective order were limited in scope to cover and protect only such documents determined to be legitimately "proprietary," "trade secret," or "confidential," FoE and Sierra would have no objection; and could simply decline, as they have consistently in the past to receive any such documents. Here, however, the proposed remedy, welcomed by SCE&G, is vastly overbroad, purportedly covering all relevant documents to be produced in future discovery, well beyond the narrow class of confidential or trade secret documents for which any showing of "particularized harm" from disclosure might apply.

The Seattle Times and Hamm decisions, cited by the Hearing Officer, are wholly consistent with and supportive of our position here. In Seattle Times the U.S. Supreme Court upheld a narrowly tailored protective order in a defamation case upon a showing by affidavit of specific harm, adversely affecting "membership and income," restricting publication of only those discovery materials

that pertained to "the financial affairs of the various plaintiffs, the names and addresses of Aquarian Foundation members, contributors, or clients, and the names and addresses of those who have been contributors, clients, or donors to any of the various plaintiffs."

Seattle Times Company v. Rhinehart, 467 U.S. 20, 104 S.Ct. 2199, 81 L. Ed. 2d 17 at

26-27 (1984). Likewise, our Supreme Court's Hamm decision supports only a narrowly tailored protective order restricting public disclosure of specific discovery materials, where a showing of "particularized harm" from the public disclosure of coal purchase and transportation contracts by SCE&G "would impair its negotiating position in the future with coal vendors and transportation service providers." Hamm v. South Carolina Public Service Commission, 312 S.C. 238, 439 S.E.2d 852 (1994). The proposed protective order here, by contrast, is not narrowly tailored to address any showing of particularized harm; but, instead, would sweep broadly to shield all further discovery materials from public disclosure merely to protect SCE&G's management of this project from legitimate public scrutiny. The overbroad and unwarranted protective order proposed by the Hearing Officer is clearly erroneous, an abuse of discretion, and should be overruled or properly narrowed in its scope as required by caselaw.

Foe and Sierra have diligently sought discovery of relevant evidentiary materials bearing on the prudence of the abandoned project costs for almost a full year; with numerous objections, unanswered requests and outright refusals remaining unresolved. A schedule for pre-filing testimony and a hearing on the merits is expected shortly; with a recent proposed schedule calling for our direct testimony to be filed in a mere 12 days. Delays and obstructive discovery tactics by SCE&G now seriously threaten our ability to obtain a fair hearing in this matter; and imperil the ability of the Commission to decide these complex and significant issues on the basis of a fully developed evidentiary record.. The Commission's order fully compelling prompt production by SCE&G of the withheld discovery materials without further delay is essential.

FoE and Sierra served and filed their first document discovery requests on July

7, 2017. Our second set of discovery requests were served and filed on October 10, 2017. SCE&G provided no responsive discovery documents until December 1, 2017; and then interposed numerous objections. Our first Motion to Compel discovery was served and filed with the Commission on December 22, 2017. Our third set of discovery requests was served and filed on March 15, 2018. Our Second Motion to Compel discovery was filed April 10, 2018. Throughout this discovery process counsel for FoE and Sierra have sought diligently to cooperatively to discuss, narrow and , where possible, resolve any and all discovery disputes with counsel for SCE&G. From the outset, counsel for SCE&G have understood that FoE and Sierra objected to and refused on principle to receive any protected documents- privileged, confidential, trade secret, commercially sensitive, or otherwise confidential; and no protective order was sought by SCE&G, nor was any confidentiality agreement entered into by FoE and Sierra. Nonetheless, discovery negotiations successfully resulted in the production of numerous relevant documents.

On January 29, 2018, as suggested by the Hearing Officer, counsel for FoE and Sierra wrote SCE&G suggesting means for narrowing and clarifying then outstanding disputes. Exhibit 1, attached. SCE&G counsel responded by letter of February 13, 2018, Exhibit 2, attached, clarifying the scope of a number of their objections and responses. Note that SCE&G's counsel there recognized our "refusal to sign a confidentiality agreement that would allow SCE&G to produce commercially sensitive documents that are responsive to your requests." Id. p. 4. FoE and Sierra counsel proposed by letter of February 16, 2018, Exhibit 3, attached, a discovery conference with SCE&G to work on further resolving outstanding discovery disputes. In response

the parties conducted an extensive discovery conference on February 23, 2018, that appeared to narrow and approach resolution of numerous outstanding disputes, including the specific purpose, items or categories of items to be inspected and the identification of participants for a proposed site visit and inspection of the abandoned nuclear project. Subsequently, by e-mail message of March 2, 2018, counsel for SCE&G "agreed to provide you, Tom Clements and Mark Cooper a tour of the abandoned construction site along with a tour of its two off-site warehouses." Exhibit 4, attached. SCE&G, however, has improperly refused to permit us to record photographically what we observe at the site; despite SCE&G's routine practice of using site photographs to illustrate site conditions to this Commission. SCE&G's latest discovery Responses and Objections, dated April 4, 2018, made clear that it is now refusing and obstructing virtually all legitimate discovery by FoE and Sierra. Despite this counsel's best good -faith efforts to resolve outstanding discovery disputes with Respondent, as urged by the Hearing Officer, SCE&G has ceased producing any further responsive documents pursuant to Complainants' First and Second Discovery and has now categorically refused to produce any documents- except those already provided to ORS and other parties- asserting for the first time objections and spurious conditions to the production of any and all requested document discovery. FoE and Sierra's pending Second Motion to Compel, filed April 10, 2018, followed.

While FoE and Sierra remain open to resume good faith negotiation toward resolving our discovery disputes with SCE&G, under the circumstances of the delays in responses to date, the press of the schedule to prepare for hearing and the present intransigence of SCE&G, a decision by the Commission now is necessary to resolve

the outstanding disputes on the proposed overbroad protective order, the now-refused site visit and inspection request, and outstanding disputes as to privilege and confidentiality of such documents as the infamous Bechtel Report and its reference documents, drafts and other progeny.

For the foregoing reasons, Friends of the Earth and Sierra Club respectfully request that the full Commission overrule or clarify the June 25, 2018, Hearing Officer Directive, Order No. 2018-74-H, which improperly imposed an unwarranted and overbroad 'gag' or protective order, grant our First and Second Motions to Compel discovery requiring SCE&G to promptly produce all responsive non-privileged, non-confidential documents; and direct SCE&G to permit a project site inspection and photography under the previously agreed-to terms.

Respectfully submitted,

June 28, 2018



Robert Guild
314 Pall Mall
Columbia, SC 29201
(803) 917-5738

ATTORNEY FOR FRIENDS OF THE EARTH
AND SIERRA CLUB

EXHIBIT 1

January 29, 2018

VIA E-MAIL AND US MAIL

K. Chad Burgess, Esquire
South Carolina Electric & Gas Company/SCANA
220 Operation Way - MC C222
Cayce, SC 29033-3701

In Re: Friends of the Earth and Sierra Club v. SCE&G,
Prudence of South Carolina Electric & Gas Company Construction of a
Nuclear Base Load Generation Facility at Jenkinsville, South Carolina and the
Unjust and Unreasonable Rates Related Thereto
Docket No. 2017-207--E

Dear Chad:

Thank you for your letter of January 26, 2018. As suggested in the Hearing Officer's Directive and your letter, we would be pleased to resolve any of our outstanding discovery disputes to avoid the necessity for a Commission ruling on our pending Motion to Compel. In that spirit and toward that end, we ask you to consider:

1. Describing the scope of the partial responses you have provided to date to document production requests objected to as vague, overbroad or not relevant, or employing terms not defined with sufficient precision. Such a description would aid in our attempt to narrow the scope of the request or better define the matters sought;
2. Clarifying and specifying the extent to which the "Terms of Response and General Objections" you asserted are applicable to the partial responses provided;
3. Suggesting potential approaches to narrowing the scope of particular requests or clarifying the terms used in a request in order to facilitate additional responses;
4. Reconsidering your assertion of confidentiality, attorney-client privilege and work product objections to our requests. In particular, reconsidering your objections to our second document production request as it relates to the so-called Bechtel Report and its drafts, working papers, references and progeny, where such documents have been widely recognized by elected officials and regulators as material evidence bearing on your abandoned project cost recovery claims and our opposition thereto;
5. Providing requested documents in a such an electronic file format so as to facilitate relevant document indexing, searching and retrieval;
6. Reconsidering your objection to our request for entry and inspection at the project site.

Your prompt response to these requests will facilitate timely resolution of our pending discovery disputes and the timely scheduling and determination of the

January 29, 2018
K. Chad Burgess, Esquire
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underlying claims in this docket as well as in your own recent Joint Application.

Should you have any question regarding this discovery, please do not hesitate to call.

With kind regards I am

Sincerely,

Robert Guild
(803) 917 5738



EXHIBIT 2

K. Chad Burgess
Director & Deputy General Counsel

chad.burgess@scana.com

February 13, 2018

VIA ELECTRONIC MAIL AND U.S. FIRST CLASS MAIL

Robert Guild, Esquire
314 Pall Mall
Columbia, SC 29201

Re: Friends of the Earth and Sierra Club v. South Carolina Electric & Gas Company
Docket No. 2017-207-E

Dear Bob:

I write in response to the first four items raised in your January 29, 2018 letter, and in a continued effort to resolve any outstanding discovery disputes. In my February 8, 2018 letter to you, I addressed the fifth and sixth items in your letter, offering to accommodate your request for a change in our production format and to discuss further your request to inspect/tour the abandoned project site.

You also asked in your January 29 letter that we identify the requests that are vague, overbroad, or lacking sufficient precision; clarify the applicability of our objections; and suggest potential approaches to narrowing the scope of particular request to facilitate additional responses. To address these items, I have outlined below:

- 1.) The requests to which we have been producing documents and do not intend to press objections to the scope or vagueness of the request, including requests for which we have now completed our production;
- 2.) Requests that are overly broad or not defined with sufficiently particularity such that we need additional information in order to narrow the requests and facilitate production of responsive documents, and;
- 3.) The requests to which we continue to object to producing any documents in response to your requests as currently stated

I hope this will focus our discussion on the specific requests that need to be narrowed in scope and/or defined with more precision. In that respect, we need to obtain a better understanding from you on the matters sought within these broad requests. We are unable to suggest an approach to narrowing the requests without first understanding what it is that you are seeking. I think the next step should be setting a time in the near term for us to discuss how best to address these open issues. What I am setting out below is designed to make that discussion more productive.

(Continued . . .)

1. Production Efforts To Date

We have completed our production of documents in response to the following requests: Second Request, Nos. 7, 9, 12. For others, we believe we have sufficient clarity as to the scope of the request, have been producing documents in response, and will continue producing documents on a rolling basis as responsive documents are identified in our ongoing document review. *See, e.g.*, First Request, No. 8 (Interim Assessment Agreement; Toshiba guarantee); First Request, No. 9 (extension of Federal Production Tax Credits); Second Request, No. 5 (Reports, findings by, and responses to the Construction Oversight Review Board). We will continue to index the documents that we produce to indicate the requests for which they are responsive, and also will continue to log any privileged documents responsive to these requests on our rolling privilege log.

We accordingly do not believe that any further discussion on these requests is necessary at this time. Obviously, if you have issues with what we have been producing so far, however, please let me know so we can address the issue.

2. Overly Broad Or Vague Requests

While we also have been producing documents in response to many of these requests, we believe that the following requests are either overly broad, or are vague and insufficiently defined such that we need clarification from you on the matters sought within these broad categories of documents: First Request Nos. 1, 2, 3, 4, and 5 and Second Request Nos. 6, and 10. These are the categories where we think the narrowing of requests that the Hearing Officer directed us to discuss should be focused, and I am setting out below some further thoughts on these requests to help advance our discussions.

In First Request Nos. 1 and 2, you request “all documents relating to” and “any communications” regarding the revised fully resource-loaded integrated project schedule, the revised schedule, and capital cost schedule occurring after January 1, 2012. This request spans a seven-year period and encompasses every document and communication regarding the project schedule without any further subject-matter limitation. We encourage you to review the documents we have produced thus far responsive to these requests (over 700 documents) to determine whether you can narrow this request to certain types of documents related to the schedules and tell us whether the documents we have produced to date give you what you are seeking in connection with the schedule. We are willing to discuss producing additional schedule-related documents, but given how broadly these requests are written, we need help from you to define and narrow what you need in this respect.

We also need clarity on what you are seeking in First Request No. 3, which requests documents “relating to any and all assessment . . . bearing on the financial capacity, fraudulent or false accounting and financial reporting, and enforceability of contractual obligations” of Westinghouse, and First Request No. 4, which seeks documents relating to any “assessment, analysis, evaluation or evidence” bearing on the “validity or enforceability” of the fixed price contract between SCE&G and Westinghouse. We are unsure what types of documents you

(Continued . . .)

envision would be responsive to this request and how they would relate to your petition in this case.

First Request No. 5 is also so broadly written that it presents a real issue for our ability to decide how to search for and respond to the request. As stated, it appears to relate, at least in part, to the issue of replacing V.C. Summer Nuclear Station Units 2 and 3 with alternative energy sources. That is not an issue that we think has been raised in any specific filing with SCE&G, and we are struggling to understand what types of documents you are seeking in the request. If you intend for this request to relate more broadly to evaluation of “prudence of completion of construction, abandonment, or replacement,” then we need to discuss some way to narrow this into a reasonable description of the documents you are asking us to search for and produce.

Second Request No. 6 is vague as well as overly broad. You request “all documents reflecting submissions” to the Employee Concern Program on a long list of topics related to the Project. The phrase “documents reflecting submissions” is vague, and the request for submissions on the topics of “fraud” and “waste,” among others, are insufficiently defined and overly broad. Again, we need further clarification from you on the matters you seek in order to narrowly tailor the scope of this request. We also raised issues in our objections about the confidentiality concerns raised by producing employee complaint documents that may have been submitted by employees with the understanding that they would not be made public. Finally, while Second Request No. 10 seeks “the documents identified . . . in testimony at the SC Senate hearing on September 18, 2017,” that includes broad categories of vaguely described information, including “project letters,” “analyses” regarding abandonment, and “annual audits” filed in the “project data base.” We need further clarification on exactly what documents or information within these broad categories you seek. For example, “project letters” could include every item of correspondence between SCE&G and the Consortium over the span of the entire Project.

Overall, our concern, as we stated in our response to your motion, is that at least as we are reading many of these requests, they appear to encompass almost every document related to the Project. We do not think it is reasonable to require us to search for and produce every document related to the Project, so we need to discuss a way to search for and give you what you need efficiently here.

3. Objections

We have objected to producing any documents in response to a handful of the requests. *See* Second Request, Nos. 1-4, 11. Specifically, we object to producing all documents produced in response to subpoenas or other legal process from State or Federal authorities. Courts that have addressed the issue in other contexts have rejected the concept that requiring a party to produce copies of documents produced in response to a different matter is proper, and we think the reasoning of those cases applies here. *See Cap. Ventures Int’l v. J.P. Morgan Acquisition Corp.*, 2014 WL 1431124 (D. Mass. Apr. 14, 2014) (denying request for all documents produced to any regulatory or law enforcement agency because such “closed discovery” was “overbroad and of speculative relevance”); *Midwest Gas Servs., Inc. v. Indiana Gas Co.*, 2000 WL 760700 (S.D. Ind. Mar. 7, 2000) (“Cloned discovery, requesting all documents produced . . . during other

(Continued . . .)

Robert Guild, Esquire

February 13, 2018

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(S.D.N.Y. Mar. 2, 2012) (denying “copycat” request for documents produced in response to a government investigation where “the Government’s investigation is far broader than the limited subject matter of this lawsuit”). Our current intent is to produce those documents only to the extent they are relevant to the issues in this proceeding, and we have done so, as documented in the production index.

We also have objected to producing documents related to the Bechtel Report and its progeny on the basis that those documents are protected by the attorney-client privilege and work-product doctrine. *See* Second Request, Nos. 1-4. In the fourth item in your January 29, 2018 letter, you ask that we reconsider our assertion of attorney-client privilege and work product objections to these requests. As we stated in our opposition to your motion to compel, Bechtel was engaged through SCE&G’s outside legal counsel in anticipation of litigation with the Consortium. We note that the Hearing Officer’s order regarding the motion made no specific reference to this issue. While we remain open to hearing more from you about why you contend that these documents would not be privileged, we are unwilling to withdraw our privilege and work-product objections to these requests at this time.

Finally, I want to raise again the issue of a confidentiality agreement that would restrict dissemination or publication of SCE&G’s confidential and commercially sensitive documents. The Hearing Officer directed our attention to the case of *Hamm v. S.C.P.S.C. and SCE&G*, 312 S.C. 238 (1994), where the South Carolina Supreme Court affirmed the PSC’s decision to deny the consumer advocate’s motion to compel certain documents from SCE&G on the grounds that SCE&G was entitled to a protective order shielding dissemination of commercially sensitive documents. We believe *Hamm* is directly applicable here. While SCE&G does not seek to prohibit Friends of the Earth from receiving commercially sensitive documents, we insist that those documents be kept confidential and restricted from becoming public. We accordingly ask that you reconsider your refusal to sign a confidentiality agreement that would allow SCE&G to produce commercially sensitive documents that are responsive to your requests.

In sum, we hope the explanation above helps to crystalize those requests to which we object on the basis of vagueness and overbreadth. I propose that you and I set a time to talk through these issues to see if we can make progress on resolving or further narrowing our disputes. I am available on February 15 and 16 for such a call; let me know if either day works for you.

Very truly yours,



K. Chad Burgess

KCB/kms

EXHIBIT 3

February 16, 2018

VIA E-MAIL AND US MAIL

K. Chad Burgess, Esquire
South Carolina Electric & Gas Company/SCANA
220 Operation Way - MC C222
Cayce, SC 29033-3701

In Re: Friends of the Earth and Sierra Club v. SCE&G,
Prudence of South Carolina Electric & Gas Company Construction of a
Nuclear Base Load Generation Facility at Jenkinsville, South Carolina and the
Unjust and Unreasonable Rates Related Thereto
Docket No. 2017-207--E

Dear Chad:

Thank you for your letter of February 13, 2018. We, as well, are interested in continuing to work on resolving, or at least narrowing, our outstanding discovery disputes. In that spirit we'd like to meet with you and your client at your convenience next week to discuss these outstanding matters, including, particularly, efforts to narrow or specify requests for production which you view as unduly vague or overbroad, efforts to address your claims of confidentiality or commercial sensitivity, and the subjects and conditions for our requested site inspection, among other topics which may be of interest to the parties. With respect to your outstanding confidentiality objections, I'd invite you to consider that documents have been produced to date without objection notwithstanding explicit denomination of such documents on their face as "Confidential" or otherwise commercially sensitive. Such production suggests that some remaining confidentiality objections may be overbroad or otherwise unsustainable. I look forward to working with you further on these matters.

With kind regards I am

Sincerely,

Robert Guild
(803) 917 5738

EXHIBIT 4

Subject: Re: Tour Dates

From: Bob Guild <Bguild@mindspring.com>

Date: 3/5/2018 12:58 PM

To: "BURGESS, KENNETH CHAD" <chad.burgess@scana.com>

BCC: Tom Clements <TomClements329@cs.com>

Chad: Thanks for the message. We will need to be able to document site conditions with photography for potential use as evidence or demonstrative materials in these proceedings- in much the same way as the company has regularly used photographs to illustrate site conditions in past BLRA cases. I'd urge you to reconsider your objection or to explain any underlying concerns which may allow us to proceed with appropriate conditions.

Do call if you'd like to discuss further.

Regards,

Bob

On 3/2/2018 6:00 PM, BURGESS, KENNETH CHAD wrote:

Bob –

SCE&G has agreed to provide you, Tom Clements and Mark Cooper a tour of the abandoned construction site along with a tour of its two off-site warehouses. The warehouses are not located in Jenkinsville, but in Blythewood and West Columbia. The total time for the tour should be about 4 hours. Please know that SCE&G will not permit photograph during the tour. SCE&G proposes conducting the tour on either March 20 or March 21. Please let me know if these dates work and if so, we can begin finalizing logistics.

Also, I wanted to make sure you received my email of February 26, 2018, concerning the information I provided you with about Concordance. If you need anything further on that matter, please let me know.

Chad

K. Chad Burgess, Esquire
Director & Deputy General Counsel
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Cayce, South Carolina 29033
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